

**PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Application of:	)	
	)	Case No. 1D 2006 64540
	)	
Erin Renee Malecha	)	Order Granting Initial Probationary License
	)	
	)	
<u>Applicant</u>	)	

1) Applicant Erin Renee Malecha is a 2005 graduate of California State University, Long Beach in Long Beach, California. The applicant first filed her physical therapist application on or about January 1, 2006 in the State of California.

2) Question # 18 of the application asks: "Have you ever been convicted of, or pled nolo contendere to any offense in any state in the United States or a foreign country?" The applicant failed to disclose criminal history and signed her application on January 1, 2006, certifying under penalty of perjury under the laws of the State of California that the information contained in the application is true and correct.

3) On December 23, 2005, the California Department of Justice (DOJ) submitted to the Board the results of the applicant's criminal history background check. The DOJ reported that on October 11, 1995, the applicant was arrested in California and charged with 484(A) PC Petty Theft. On or about November 13, 1995, Ms. Malecha was convicted of a misdemeanor for trespass: injure property and was sentenced to 1 year probation, two days jail, with IMP SEN SS. By responding "No" to question # 18 of the application and failing to disclose this conviction, the applicant knowingly made a false statement of fact required to be revealed in the application.

**JURISDICTION**

4) Section 480 (a) of the Business and Professions Code states that a board may deny a license regulated by this code on the grounds that the applicant has one of the following: (1) Been convicted of a crime...; (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or (3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license... Section 480 (c) of the Business and Professions Code provides that the board may deny a license...on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license. The above findings support a conclusion that grounds for denial exist pursuant to Sections 480 (a)(1)(2) and (3) and 480(c).

5) Section 583 of the Business and Professions Code states that no person shall in any document or writing required of an applicant for examination, license, certificate, or registration under this division, the Osteopathic Initiative Act, or the Chiropractic Initiative Act, willfully make a false statement in a material regard.

6) Section 2660.2 of the Business and Professions Code, the Board may refuse a license to any applicant guilty of unprofessional conduct; or as an alternative, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct but has met all the requirements for licensure.

7) Under the circumstances of this matter, however, a probationary license may be issued consistent with the public interest to applicant Ms. Malecha on appropriate terms and conditions of probation.

### **ORDER**

IT IS ORDERED THAT the application of Erin Renee Malecha, for licensure as a physical therapist is hereby issued subject to terms and conditions. Said license shall be subject to all of the following terms and conditions for a period of two (2) years:

1. PROBATION Applicant is placed on probation for a period of two years. Probation begins on the date the initial probationary license is issued.
2. OBEY ALL LAWS Applicant shall obey all federal, state and local laws, and statutes and regulations governing the practice, inspections and reporting, of physical therapy in California and remain in full compliance with any court ordered criminal probation.
3. QUARTERLY REPORTS Applicant shall submit quarterly reports under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all conditions of probation.
4. RESTRICTION OF PRACTICE – PROHIBITION OF SELF EMPLOYMENT OR OWNERSHIP Applicant shall not be the sole proprietor or partner in the ownership of any business that offers physical therapy services. Applicant shall not be a Board member or an officer or have a majority interest in any corporation that offers or provides physical therapy services. Applicant may not employ physical therapist, physical therapist assistants or physical therapy aides.
5. RESTRICTION OF PRACTICE – SUPERVISION REQUIRED Applicant shall only practice physical therapy under the supervision of a physical therapist who holds a valid unrestricted license, and who is responsible for the care rendered.
6. RESTRICTION OF PRACTICE - HOME CARE Applicant shall not provide physical therapy services in a patient's home.
7. RESTRICTION OF PRACTICE – PRESENCE OF ANOTHER PHYSICAL THERAPIST REQUIRED Applicant shall be prohibited from working any shift in which there is no other physical therapist on duty.

8. RESTRICTION OF PRACTICE – CLINICAL INSTRUCTOR OF PHYSICAL THERAPY STUDENT INTERNS OR FOREIGN EDUCATED PHYSICAL THERAPIST LICENSE APPLICANTS PROHIBITED. Applicant shall not supervise any physical therapy student interns or foreign educated physical therapist license applicants during the entire period of probation. Applicant shall terminate any such supervisory relationship in existence on the effective date of this probation.
9. RESTRICTION OF PRACTICE – TEMPORARY SERVICES AGENCIES – The applicant shall not work for a temporary services agency or registry.
10. COMPLIANCE WITH ORDERS OF A COURT Applicant shall be in compliance with any valid order of a court. Being found in contempt of any court may constitute a violation of probation.
11. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF RESTITUTION Applicant shall not violate any terms and conditions of criminal probation and shall be in compliance with any restitution ordered, payments or other orders.
12. PROBATION MONITORING PROGRAM COMPLIANCE Applicant shall comply with the Board's probation monitoring program.
13. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Applicant shall appear in person for interviews with the Board, or its designee, upon request at various intervals.
14. NOTIFICATION OF PROBATIONER STATUS TO EMPLOYERS The applicant shall notify all present or future employers of the reason for and the terms and conditions of the probation by providing a copy of the Initial Probationary License, to the employer, and submit written employer confirmation of receipt to the Board within 10 days. The notification(s) shall include the name, address and phone number of the employer, and if different, the name, address and phone number of the work location.
15. NOTIFICATION OF CHANGE OF NAME OR ADDRESS The applicant shall notify the Board, in writing, of any and all changes of name or address within ten days.
16. PROHIBITED USE OF ALIASES Applicant shall not use aliases and shall be prohibited from using any name which is not Erin Renee Malecha legally-recognized name or based upon a legal change of name.
17. INTERMITTENT WORK If the applicant works less than 192 hours as a physical therapist or a physical therapist assistant in the physical therapy profession in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The applicant shall notify the Board if they work less than 192 hours in a three-month period.
18. TOLLING OF PROBATION The period of probation shall run only during the time applicant is practicing within California. If, during probation, applicant does not practice within California, applicant is required to immediately notify the probationary monitor in writing of the date that applicant's practice is out of state, and the date of return, if any. Practicing physical therapy by the applicant in California prior to notification to the Board of the applicant's return will not be

credited toward completion of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.

19. VIOLATION OF PROBATION If applicant violates probation in any respect, the Board, after giving applicant notice and the opportunity to be heard, may revoke probation and the license. If an accusation or petition to revoke probation is filed against applicant during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.
20. REQUEST TO SURRENDER LICENSE DUE TO RETIREMENT, HEALTH OR OTHER REASONS Following the effective date of this probation, if applicant ceases practicing or performing physical therapy due to retirement, health or other reasons or is otherwise unable to satisfy the terms and conditions of probation the applicant may request to surrender his/her license to the Board. The Board reserves the right to evaluate the applicant's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms and conditions of probation shall be tolled until such time as the license is no longer renewable, the applicant makes application for the renewal of the tendered license or makes application for a new license.
21. COMPLETION OF PROBATION Upon successful completion of probation, applicant's license shall be fully restored.
22. PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE ON PROBATION It is not contrary to the public interest for the applicant to practice physical therapy under the probationary conditions specified in the disciplinary order. Accordingly, it is not the intent of the Board that this order, the fact that the applicant has been disciplined, or that the applicant is on probation, shall be used as the sole basis for any third party payor to remove applicant from any list of approved providers.
23. RESTRICTION OF PRACTICE-PROHIBITION OF DIRECT INSURANCE BILLING Applicant shall not have final approval over any billings submitted to any third-party payors in any employment as a physical therapist.

THIS DECISION SHALL BECOME EFFECTIVE ON April 14, 2006.

IT IS SO ORDERED March 15, 2006.

Original Signed By: \_\_\_\_\_  
Steven K. Hartzell, Executive Officer  
Physical Therapy Board of California